



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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February 5, 2015

The Honorable Christian F. Hummel
United States Magistrate Judge
Northern District of New York
James T. Foley United States Courthouse
445 Broadway
Albany, New York 12207

Re: *Fedele et al. v. Harris et al.*,
14-CV-559 (N.D.N.Y.) (GLS) (CFH)

Dear Judge Hummel:

This Office represents the Defendants in the above-referenced action. I write to respectfully ask for clarification regarding the Order to Show Cause issued by Your Honor on February 4, 2015. See ECF No. 58.

The Order to Show Cause refers to the Defendants' "joint representation with the City." ECF No. 58 at 1-2. Moreover, item 1 of the Attachment discusses a circumstance where a government entity might assert that an individual co-defendant was not acting within the scope of his or her employment. ECF No. 58 at 5. Dunton v. County of Suffolk, State of New York, the case cited by the Court, involved a county defendant that asserted that an individual defendant was not acting within the scope of his employment. 729 F.2d 903, 908-09 (2d Cir. 1984).

However, there is no municipal, county, or state defendant in this action. All Defendants are individuals and all assert the same defense. In order to ensure its complete and correct compliance with the Order to Show Cause, this Office respectfully seeks clarification as to whether any aspect of that Order was based on an assumption that this matter involved a government entity as a defendant.

Thank you for your consideration of this request for clarification.

Hon. Christian F. Hummel

February 5, 2015

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Respectfully submitted,

By: /s/ Helena Lynch

Helena Lynch

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